Topfree 7 case may be dead

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But he denied the women's claim that the law was unconstitutional because it prohibited only women from going shirtless in public. The women have said the key purpose behind their June 21 protest was to challenge the constitutionality of the law on the grounds of sex discrimination.

Walz said in his decision that the law was constitutional on the basis of sex discrimination because it upheld community standards that consider women's breasts an intimate part of the body.

"At this point, (Walz's decision) has minimal precedent value," Relin said. "If we go to a higher court, I don't think we'd lose, but if we did it would be binding on all City Court judges."

Relin said he has begun discussing whether to appeal the case with Assistant District Attorney Melvin Bressler, chief of the Appeals Bureau in the district attorney's office. A decision is expected by the end of the week.

Mary Lou Schloss, one of the seven former defendants, said last night she was "disappointed (Relin) has gone on national TV on this issue and has said in the media that he will definitely appeal and now he may not."

She added, "we may have to go out and get arrested again but next time not mention free speech as a defense" because that issue clouds their argument.

The women have said they want to challenge the law all the way up to the state Court of Appeals, the state's highest court, and possibly to the U.S. Supreme Court.

But unless prosecutors appeal Walz's ruling, their case will not be heard again in any court.

Morley Schloss, founder of the Rochester Nudist Society, said yesterday that his group would hold nude protests next summer on public beaches in the city and across the state to protest the law. He is the husband of Mary Lou Schloss.

But Relin said the protesters will be prosecuted if they go topless again, even if Walz is the presiding judge when they are arrested.

Nudity case may be dead

Prosecutor wants to keep Topfree 7 out of higher court

By John O'Brien
Democrat and Chronicle

Prosecutors might not appeal the decision of a Rochester City Court judge who dismissed charges against seven women who bared their breasts last summer at Cobbs Hill Park.

District Attorney Howard R. Relin said yesterday that he has reconsidered his initial intention to challenge the decision by City Court Judge Herman J. Walz. By not appealing, prosecutors would prevent the so-called Topfree Seven from arguing their case in a higher court.

Immediately after Walz's decision was released Monday, Relin said he definitely would appeal the ruling to Monroe County Court. But after a more thorough reading of the decision, Relin said yesterday that an appeal would serve little purpose for prosecutors.

Walz dismissed indecent exposure charges against the women, saying they were exercising their right to freedom of speech by going topless to protest a state law against nudity.

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